

[17] so look at it?

[18] A. I did, um-hum.

[19] Q. Okay. Miss Richter, you have been
[20] handed a copy of what's been marked as Exhibit 4 to
[21] your deposition, it's a copy of a bill from Pepper
[22] and Corazzini, dated August 10, 1992, with production

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[1] number FCC slash CP 018017 through 018019. First
[2] question is, do you take a look at these bills before
[3] they go out from your firm, do you recall whether or
[4] not you looked at this bill before it went out?

[5] A. In August of '92 I don't think I was
[6] reviewing bills before they went out, but later in my
[7] tenure with Pepper and Corazzini, I did review bills
[8] before they went out.

[9] Q. Can you tell me what your understanding
[10] is of the process by which a bill was put together in
[11] 1992?

[12] A. I would mark my time on a blue tablet
[13] indicating the date, the amount of time I spent on a
[14] project and what the project was roughly. The sheets
[15] would be handed in. They would be entered into our
[16] system by the accounting personnel. I think Bob
[17] Corazzini reviewed full copies of all of the bills
[18] before they went out, and then they went out to the
[19] client.

[20] Q. Looking at this Exhibit 4 here, JLR, is
[21] that you, as far as you know?

[22] A. That's me.

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[1] Q. Okay, the transcript of the work that's
[2] done here, the description, is that copied verbatim
[3] from what you write on your blue tablet, as far as
[4] you know?

[5] A. That's correct, save for spelling
[6] errors which are obvious.

[7] Q. Now there is some indication here on
[8] your transcript for July 1 there was a phone call
[9] regarding modification and STA rules -

[10] A. Um-hum.

[11] Q. - do you have any recollection of what
[12] that conversation would have been about or what you
[13] were inquiring about in July of '92 regarding STA
[14] rules?

[15] A. I don't recall.

[16] Q. Do you recall whether or not someone
[17] had told you to find out something about STAs for
[18] Liberty?

[19] A. I don't know if someone told me, or if
[20] I did it on my own.

[21] Q. Look at the date for July 8, '92, this
[22] entry here describes a phone call, FCC Gettysburg

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[1] office, Liberty 18 GHz application procedure. Do you
[2] have any recollection of what that was about?

[3] A. No, sir, I don't.

[4] Q. Was there - to your recollection, was
[5] there any kind of work being done to establish a
[6] procedure for Liberty's applications at that time?

[7] A. It's difficult for me to gauge where we
[8] are in time. I see the August 10th date, but it was
[9] so long ago, I'm having difficulty knowing exactly
[10] where I was in the process of representing Liberty at
[11] this point.

[12] Q. Is it possible that the call that's
[13] referred to here would have been for your own
[14] information, just as part of your own sort of
[15] education process?

[16] A. That is as possible as anything.

[17] Q. Okay. Do you know who KLC, what that
[18] stands for on this bill?

[19] A. I don't, I was wondering that.

[20] Q. What?

[21] A. I was wondering that when I was looking
[22] down.

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[1] Q. Okay, let's mark another one of these.

[2] (Whereupon, a document was marked
[3] Richter Deposition Exhibit Number 5, for
[4] identification by the reporter.)

[5] Q. (BY MR. BECKNER) Okay, Miss Richter,
[6] you have been shown a copy of what's been marked as
[7] Exhibit 5 in your deposition, and it's a bill dated
[8] November 10, 1992 with production number FCC slash
[9] CP

[10] 018022 through 018023. The entries on this bill
[11] appear to reflect some need for correction of
[12] licenses, do you see that there? I don't know what
[13] the month is, but the 5th and the 6th, do you recall
[14] what that was about, the corrections for
[15] applications?

[16] A. I - I don't, I don't, but was this
[17] close in time to the first inventory that was
[18] prepared?

[19] Q. Well, this is 1992, so that's -

[20] A. I don't know, yeah, sorry.

[21] Q. Now just to get the nomenclature
[22] straight, when you say begin work on modification
[23] applications, is that an application for a

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[1] modification to an existing license, is that what you
[2] mean by that?

[3] A. Yeah, it could be - I'm not sure with
[4] regard to the specific entry, but it could have been
[5] either a modification to an existing license or an
[6] amendment to an existing application, and I may
[7] have

[8] been referring to it generically as modification
[9] application.

[10] Q. And this is the thing that you would
[11] file if you - if Liberty wanted to add a path to -
[12] from an existing transmitter that was already
[13] licensed, it would be called a modification?

[14] A. Right. What I'm trying to tell you is
[15] that it could also be an amendment to a pending
[16] application, a pending modification application. It
[17] could be either, I just don't know without looking at
[18] what I was work on.

118] Q. Now this phone call to Behrooz, hold-up
 119] until filing 18 GHz applications; need for checks,
 120] was that a situation where you needed to file, but
 121] you needed checks for application fees from him?
 122] A. That's what it looks like.

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1] Q. All right.
 2] (Whereupon, a document was marked
 3] Richter Deposition Exhibit Number 6, for
 4] identification by the reporter.)
 5] Q. (BY MR. BECKNER) Okay, have you had a
 6] look at that?
 7] A. I have.
 8] Q. Miss Richter, you are now looking at
 9] what has been marked Exhibit 6 to your deposition,
 10] production number FCC slash CP 018037 through 39.
 11] The first entry on the bill refers to a phone call
 12] re: new paths to be applied for and applications
 13] being sent.
 14] MR. BEGLEITER: It's re colon, new
 15] paths, so he understands.
 16] Q. (BY MR. BECKNER) At the beginning of
 17] my examination of you, I had asked you whether or
 18] not - how applications got started and you had
 19] answered that initially you would get a frequency
 20] coordination from Comsearch and then later on you
 21] began to get requests from Behrooz directly. Does it
 22] appear to you, this March 2nd entry appear to you to

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1] be an instance where you got a request from Behrooz
 2] directly to file applications?
 3] A. That's what it appears to be.
 4] Q. Once you and Mr. Nourain had started
 5] working together where he was asking you to file
 6] applications, once that practice got started, did it
 7] continue pretty much uniformly thereafter, where he
 8] would ask you for applications, as opposed to your
 9] getting a Comsearch study?
 10] A. I think that's generally how it went.
 11] Q. Now this entry also indicates that in
 12] March you started working on the inventory of
 13] Liberty's licenses which we discussed earlier. Is
 14] that consistent with your recollection?
 15] A. I'm sorry, would you repeat the
 16] question?
 17] Q. This document indicates that in March
 18] you began to work on the inventory of Liberty's FCC
 19] licenses, which we discussed earlier?
 20] A. Right.
 21] Q. And the question is, is that consistent
 22] with your recollection?

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1] A. Yes, I mean without looking at previous
 2] bills, I don't know if I had - if this was the first
 3] entry. If you tell me that it is, then I believe you
 4] that it is.
 5] Q. I don't know whether I have all the
 6] bills.
 7] MR. WEBER: I think I do.

8] Q. (BY MR. BECKNER) Now this entry on the
 9] 12th of March has the term "reconstruct files". Can
 10] you tell me what you meant by that?

11] A. This is a little fuzzy. What I
 12] remember is that we had large files for Liberty that
 13] did not, as my inventory does, separate things by a
 14] call sign and/or by a location. I may have begun
 15] filing things by location, rather than the previous
 16] system, which was really a mess. So I think what I
 17] was doing was pulling things apart and putting it
 18] back together to try to make sense of it. No insult
 19] to anyone I worked with.

20] Q. Now the entry on the 15th talks about a
 21] new functional system diagram; what's that?

22] A. If you would look back at the one of

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1] the inventory copies, you'll see that after a call
 2] sign and a set of paths, there is a drawing of - no,
 3] you don't have it on this one.

4] Q. I'll give you another one.

5] A. This is a functional system diagram.

6] MR. BEGLEITER: Which is the page
 7] you're looking at?

8] A. It's FCC slash CP 016271.

9] MR. BEGLEITER: Thank you.

10] Q. (BY MR. BECKNER) And what exhibit is
 11] that?

12] A. This is Exhibit -

13] Q. 3?

14] A. TWCV, Exhibit 3. And that is a
 15] functional system diagram of WNTM-213.

16] Q. Now are those diagrams produced by
 17] Comsearch?

18] A. In some -

19] Q. - or by Liberty?

20] A. You'll see both. Actually some say
 21] Comsearch at the bottom and some say Liberty at the
 22] bottom. If you go all the way to the back of that,

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1] to the bottom there, that one says Liberty. This is
 2] another more elaborate functional system diagram.

3] MR. BEGLEITER: Could you give the page
 4] number on that, please?

5] A. And that is -

6] MR. BECKNER: I don't see a number.

7] MR. BEGLEITER: There it is, over
 8] there.

9] A. That is number FCC slash CP, 016280.
 10] There were all instances when I filed applications
 11] that if Comsearch or Liberty hadn't given me a
 12] functional system diagram, I would try to replicate
 13] as best I could using azimuths and directions what it
 14] generally looked like. But that was nowhere as
 15] scientific as what Liberty or Comsearch was able to
 16] put together.

17] Q. Now your entry here says that you
 18] reconciled Liberty diagrams with licenses. Does that
 19] mean that you took a diagram like what you're
 20] referring to in your answer to a previous question,

[21] and then verified that there were licenses for each
 [22] of the paths that were indicated on the diagram?

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[1] A. That seems to be what I'm saying.

[2] Q. As far as you recall, did Liberty have
 [3] diagrams for a complete set of system diagrams at
 [4] this time?

[5] A. Other than what was in the inventory
 [6] that was put together, I mean obviously the last few
 [7] pages of the inventory are their own – they produced
 [8] those functional system diagrams, and they would
 have

[9] anything else that I had placed in here.

[10] And if they had copies of the
 [11] applications, they would have any functional system
 [12] diagrams that were in there, and there are functional
 [13] system diagrams for things that were applied for and
 [14] for things that were licensed, both.

[15] Q. Now did the functional system diagrams
 [16] indicate which paths were actually in use?

[17] A. I don't recall, I'd have to really take
 [18] a look at it to be able to answer that question.

[19] Q. Let's see if we can find a –

[20] A. We can try and do an example, but you
 [21] understand that there are functional system
 diagrams

[22] for everything, so in order to answer one way or the

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[1] other completely, we'd have to look at every single
 [2] one.

[3] Q. No, I'm not going to ask you to do that
 [4] obviously, which one did you have?

[5] A. This one I don't think has anything.

[6] Q. Let's look at Exhibit 3, that's the
 [7] April, '93. The witness is looking at TWCV, Exhibit
 [8] 3.

[9] A. What would you like me to look at in
 [10] here?

[11] Q. Well, the question I had asked you is
 [12] whether or not the functional system diagrams that
 [13] you received indicated to you that a particular path
 [14] on the diagram was or was not actually in operation?

[15] A. That question is confusing.

[16] Q. Let's look –

[17] A. Let's just look at the first one.

[18] There is a functional system – let me back up. You
 [19] understand that the FCC asked for functional system
 [20] diagrams to be included in applications that you were
 [21] filing, obviously when you file an application that's
 [22] an unlicensed path you're – you're asking for

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[1] licensing?

[2] Q. Right.

[3] A. So in this situation, at WNTM386, they
 [4] have applied for a path and it's going to 1 Lincoln
 [5] Plaza. I can't tell – let's see, that says that's a
 [6] modification of that path from previously, that may
 [7] be a licensed path, but there is a modification that
 [8] hasn't been licensed, and what the content of that

[9] modification is I don't know.

[10] But going from one Normandie Court to
 [11] two, which is 1 Lincoln Plaza, that may be a licensed
 [12] path, but the modification is not licensed, and I
 [13] can't tell from this whether or not it was or not.

[14] Q. Well, let me ask you another question
 [15] about these – these functional system diagrams that
 [16] are included in TWCV, Exhibit 3. You were looking at
 [17] the first one, on page 004, did that come from an
 [18] application, as far as you know?

[19] A. I wouldn't know. These were prepared
 [20] for – functional system diagrams were prepared for
 [21] applications. Whether this came from a specific
 [22] application, I can't say.

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[1] Q. Can you say that with respect – can
 [2] you identify with respect to any of these functional
 [3] system diagrams whether or not they came from an
 [4] application or not?

[5] A. No. Go to 016265 –

[6] Q. Yes.

[7] A. – and you see up in the corner there I
 [8] have got a call sign and then it says Liberty Cable
 [9] Company, Inc., that looks to me like something we
 [10] could have put on this functional diagram, typed
 [11] Pepper and Corazzini, just those two lines as part of
 [12] an application, and you could verify that obviously
 [13] by going to the application.

[14] Q. Do you know whether or not any of these
 [15] were specially prepared for the purpose of the
 [16] inventory?

[17] A. Some of them may have been. I don't
 [18] recall specifically, but some of them may have been.

[19] Q. I want you to take a look at pages 17
 [20] and 18, this exhibit has a number of numbered pages.

[21] A. Okay.

[22] Q. Okay, on page 17, paths 6 through 9 are

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[1] in italics, which your cover memo explains they are
 [2] not being used, is that correct, the ones at the
 [3] bottom?

[4] A. That's correct.

[5] Q. It means they are not being used?

[6] A. Yes.

[7] Q. The system diagram on page 18 shows
 [8] those paths?

[9] A. Right, and they are – they are off by
 [10] one, because the transmitter gets a path number.

[11] Q. Right. So – but there's nothing on
 [12] this diagram that you recognize that would tell you
 [13] that any of these paths are in fact not being
 [14] operated, is that correct?

[15] A. That's correct.

[16] Q. So you had to be told this by Behrooz
 [17] Nourain?

[18] A. That's correct. And let me clarify, as
 [19] we go through this some things are coming back to
 me,
 [20] earlier we went through and we looked at if there was

[21] a 6-digit code in the margin, what that meant, if
[22] that was an application, file number, did that mean

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[1] it was licensed and I think I said, well, no, it's an
[2] application number, so that doesn't mean that it's
[3] licensed.
[4] But you can tell, if you look up at the
[5] top of each of the pages, I've noted next to a
[6] 6-digit code under file numbers, if it was a
[7] modification, which may mean that the path was
[8] licensed. We filed a modification for it, not
[9] necessarily just to add the path, the path may
[10] already exist on the license, but maybe they've
[11] changed a transmitter, or they've changed something
[12] in the system that required a modification of what
[13] had already been licensed. Is that helpful?

[14] Q. What page are you looking at?

[15] A. For example, let's go to page 016260.

[16] Q. Okay. All right, I have that page.

[17] A. Okay.

[18] Q. You have a file number at the top of
[19] the page, you have file number 779228 in paren, auth?

[20] A. Right, which means that was the
[21] original authorization file number.

[22] Q. And then you have 789095, paren, Mod?

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[1] A. Which means that it was a modification.

[2] Q. Okay.

[3] A. So then go down to path number 2 there,
[4] which for some reason is smudged out, it's 45 East
[5] 72nd Street.

[6] Q. Yes.

[7] A. And it says 789095 over in the
[8] right-hand margin.

[9] Q. Yes.

[10] A. I can't tell by looking at this whether
[11] that path was already part of the system and we were
[12] just changing a technical parameter on that path, or
[13] if that modification in fact adds that path and we
[14] would have to look at the applications to know that.

[15] Q. Okay, so with respect to the - all of
[16] the paths on this page that we're looking at, paths 1
[17] through 9, are you telling us that looking at this
[18] document alone, it's impossible for a person to
[19] determine whether or not these paths are or are not
[20] licensed?

[21] A. That's correct, I think that's what I
[22] said earlier, but -

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[1] Q. I'm just trying to clarify.

[2] A. Yeah, it's - it's difficult to
[3] remember all of this.

[4] Q. Okay, but just to make sure that we
[5] understand your prior testimony and it's not
[6] changed -

[7] A. Right.

[8] Q. - as a general rule on these
[9] inventories, your understanding was that if there was
[10] a file number or a date in parenthesis opposite a

[11] path, then that path was as of the time of the
[12] inventory not licensed?

[13] A. No, that's what I'm trying to

[14] clarify -

[15] Q. Okay, good.

[16] A. - we would have to go back and look at
[17] the licenses and the applications to determine
[18] whether the file number in the right-hand margin is a
[19] modification that adds that path, or if that was an
[20] existing path that already was on this license and we
[21] were simply changing a technical parameter, and
[22] that's what I can't figure out.

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[1] It's different than if you go to page
[2] 016276, and if you look at the bottom of the page,
[3] I've got an 8 in a circle and I've got a new path
[4] listed there. That path didn't exist before, that's
[5] a new path that we're adding, and someone's written
[6] in 792859, and that's the file number that added that
[7] path, that is not a modification of an existing path.

[8] Q. Can we go back to page 16260, please?

[9] A. Yes.

[10] Q. The handwriting opposite the typed
[11] words path information, is that yours or someone
[12] else's?

[13] A. That's someone else's.

[14] Q. Do you know whose that is?

[15] A. No, I don't.

[16] Q. Okay. Let's go back to Richter Exhibit
[17] 6, which was the billing records that we were looking
[18] at before -

[19] A. Yes.

[20] Q. - we digressed onto these
[21] inventories.

[22] A. Okay.

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[1] Q. And I think we left this exhibit when I
[2] was asking you about the March 15th entry, and so I
[3] want to just come back to that. When your entry here
[4] says reconciled Liberty diagrams with licenses, the
[5] diagrams that you're referring to are these
[6] functional system diagrams like what we have been
[7] looking at, correct?

[8] A. That is correct.

[9] Q. And was the reconciliation that you're
[10] talking about here simply an attempt to match up the
[11] diagrams with the licenses, call signs and file
[12] numbers, is that what it was?

[13] A. Yes. And again I don't know what
[14] specifically I was doing at this point. You could
[15] reconcile it with licenses, you could reconcile it
[16] with applications. This says that I'm reconciling
[17] functional system diagrams with licenses, but we
[18] know
[19] that functional system diagrams don't only represent
[20] licenses.

[21] Q. Was this reconciliation that's referred
[22] to here an attempt to verify whether or not operating
paths were in fact licensed or not?

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[1] **A. Repeat it to me.**

[2] **MR. BECKNER:** Can you read it back,
[3] please

[4] (Whereupon, the record at page 66,
[5] line 4, was read by the reporter.)

[6] **A. No.**

[7] **Q.** (BY MR. BECKNER) Okay, I'd like you to
[8] take a look at page 2 of Exhibit 6, and the entry
[9] here that says phone call Mike Roth, re: new
[10] functional system diagrams. Do you recall anything
[11] what that was about?

[12] **A. Mike Roth worked for Comsearch, and as**
[13] **you can see at the bottom of many of the functional**
[14] **system diagrams, he had prepared them, so**
apparently

[15] **I was calling him about the functional system**
[16] **diagrams.**

[17] **Q.** Okay, what I want to know is, what –
[18] if you recall, what was it that caused you to –
[19] caused you or Liberty or Comsearch to prepare new
[20] functional system diagrams, was there some problem
[21] with the ones that existed or what?

[22] **A. It may have been for purposes of the**

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[1] **inventory, it may have been an update as the**
[2] **inventory is an update to add paths, it could have**
[3] **been any of a number of things.**

[4] **Q.** So a new functional system diagram
[5] might simply be one that was updated?

[6] **A. Correct, yeah.**

[7] (Whereupon, a document was marked
[8] Richter Deposition Exhibit Number 7, for
[9] identification by the reporter.)

[10] **Q.** (BY MR. BECKNER) Okay, Miss Richter,
[11] you have been handed what's been marked Exhibit 7 to
[12] your deposition. Take whatever time you need to look
[13] at it and then let me know and I want to ask you some
[14] questions.

[15] **A. Go ahead.**

[16] **Q.** The entry for April 2nd says phone
[17] call: Behrooz, re: construction and operation of
[18] paths that have not been granted and future
[19] modifications. Can you tell us anything about what
[20] that call was about?

[21] **A. No, I don't recall.**

[22] **Q.** Did Mr. Nourain tell you in this call

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[1] **that Liberty was in fact operating paths that had not**
[2] **been granted, that is had not been licensed?**

[3] **A. No one at Liberty including Behrooz**
[4] **ever told me they were operating something that had**
[5] **not been granted.**

[6] **Q.** Was he discussing with you the
[7] circumstances under which a path could be operated
[8] prior to grant?

[9] **A. I think it's plausible to assume that**
[10] **we may have been talking about STAs here, how he**
[11] **could begin operation of a path that had not yet been**

[12] **granted.**

[13] **Q.** Was there anything or any circumstance
[14] that you were aware of that caused you and Mr.
[15] Nourain to have a discussion about the subject at
[16] this particular time, as indicated on Richter 7?

[17] **A. Just looking at my billing, I don't**
[18] **know. Again, going back to the beginning of the**
[19] **deposition, the FCC's processing was taking a long**
[20] **time, and the whole discussion of STAs came about as**
[21] **a discussion of this very long processing time that**
[22] **was taking place at the FCC.**

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[1] **Q.** Now I direct your attention to the
[2] April 13th entry Behrooz, re: construction of
[3] unauthorized stations. Phone call: Hughes re:
[4] experimental license. Do you recall anything about
[5] either of those conversations?

[6] **A. No, I don't recall anything about**
[7] **either of those conversations.**

[8] **Q.** Do you know why you would have called
[9] Hughes about an experimental license?

[10] **A. I think generally if the topic is**
[11] **how – how could Liberty construct and begin**
[12] **operation of a path that hasn't been granted yet, and**
[13] **we're talking about special temporary authority, we**
[14] **may have also looked into the rules on experimental**
[15] **licenses and whether or not that could have been of**
[16] **any assistance. That makes sense, but that's not a**
[17] **specific recollection of any conversations I had.**

[18] **Q.** Now on the 20th you have an entry here
[19] of draft 10 certificates of construction. Can you
[20] tell me what that is?

[21] **A. That would have been a notification to**
[22] **Gettysburg that facilities had been constructed –**

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[1] **facilities that were licensed had been constructed.**

[2] **Q.** Is that something that you did
[3] routinely or –

[4] **A. I did it, and I think I was later**
[5] **informed that it wasn't necessary. Whether it was**
[6] **necessary or not, I don't know. And I don't know**
[7] **after the point that I learned that it might not have**
[8] **been necessary, if I continued with that, but at some**
[9] **time I clearly believed it was necessary and I was**
[10] **doing it.**

[11] **Q.** Now on the next page of the bill there
[12] is an April 28th entry, phone call: Peter Price, re:
[13] STAs. Do you recall anything about that conversation
[14] with Mr. Price?

[15] **A. No, I don't.**

[16] **Q.** And I take it that prior to your seeing
[17] this document, you didn't remember having any
[18] conversation with Mr. Price?

[19] **A. No – right, I thought that I had had a**
[20] **conversation with him on antenna preemption, I**
[21] **know I**

[22] **had at least one – well, I really only recall one**
phone call with him, so maybe it was about STAs and

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[1] not antenna preemption.

[2] Q. And in any event, you filed STA
[3] requests on April 30th, according to this bill?

[4] A. I did not, it looks like Howard Barr
[5] may have.

[6] Q. I apologize, yes. Were you working
[7] with Howard Barr on these requests during – at the
[8] end of April, do you know?

[9] A. It looks like I reviewed materials for
[10] him, that's what the April 28th entry says.

[11] Q. Okay, now I want to mark another
[12] document here.

[13] (Whereupon, a document was marked
[14] Richter Deposition Exhibit Number 8, for
[15] identification by the reporter.)

[16] (There was discussion outside the
[17] record.)

[18] (Whereupon, a recess was taken.)

[19] Q. (BY MR. BECKNER) We are on the
[20] record. Miss Richter, you have been shown what's
[21] been marked as Exhibit 8 to your deposition, and
[22] actually it's two copies of the same letter dated

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[1] April 20, 1993. The first copy has some handwritten
[2] notes on the front, the second copy does not. And it
[3] has production numbers FCC slash CP 017981 through
[4] 17984. Why don't we just look at the second copy of
[5] the letter, because the margin didn't cut off part of
[6] the text. First, can you tell me whether or not
[7] these are your initials or your signature on the
[8] bottom of the last page of the letter?

[9] A. Those are my initials on the second
[10] page of the letter.

[11] Q. Okay. So as far as you recall, this
[12] letter was sent on or about April 20th to Mr.
[13] McKinnon?

[14] A. That's correct.

[15] Q. And with the carbon copy to Mr.
[16] Nourain?

[17] A. Correct.

[18] Q. Now the second sentence of this letter,
[19] I'd like you to tell me what you meant by this second
[20] sentence, it begins "some things were revealed" –

[21] A. Do you want me to read it or just
[22] tell –

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[1] Q. I want you to tell me what you meant by
[2] it, I'm not asking you to read it out loud.

[3] A. Okay, what I recall about my
[4] relationship with Behrooz was that he had not been
[5] doing OFS licensing prior to when he came to
[6] Liberty,
[7] and I don't know when he did come to Liberty. He was
[8] revealing to me I think a lack of understanding of
[9] the rules and when a station can be put into – can
[10] be constructed and when it can be put into
[11] operation.

[12] And a lot of my relationship with
[13] Behrooz over the beginning of our relationship was

[13] educational in nature. I did a lot of explaining
[14] what you can do and what you can't do, and I think
[15] that his general lack of understanding is what I'm
[16] referring to.

[17] Q. In the next sentence that follows the
[18] one that I just asked you about, you talk about
[19] ensuring that your competitors are given no
[20] ammunition against you, what do you mean by that?

[21] A. I was aware when I came to Pepper and
[22] Corazzini that Peter Price had a fairly high profile,

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[1] that he was someone who used the media to his
[2] advantage, and I wanted to make sure that they were
[3] doing everything, you know, in accordance with the
[4] rules, so that since he had this high profile and he
[5] was an easy target, the company couldn't be called on
[6] the carpet for doing something improper, if that was
[7] going on.

[8] Q. Well, in the conversations that
[9] preceded this letter with Mr. Nourain, did he
[10] indicate to you that he thought there were
[11] circumstances under which it would be permissible to
[12] activate a microwave facility before it had been
[13] licensed?

[14] A. That he told me that it was
[15] permissible?

[16] Q. That his belief or understanding was,
[17] that it was –

[18] A. No. But there did seem to be some
[19] confusion about could he construct before it was
[20] licensed, you know, when he could begin operation,
[21] these things seemed to be confusing to him. And I
[22] don't know what kind of service he was working in

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[1] before, but he did seem to have some confusion about
[2] what was permissible and what was not.

[3] Q. Did he indicate to you that he thought
[4] that once an application had been filed for a new
[5] microwave facility, that it would be okay to turn
[6] that facility on?

[7] A. I don't recall that he stated anything
[8] like that to me.

[9] Q. Well, there was no requirement in the
[10] FCC's rules that a person have a license before
[11] constructing a microwave facility, isn't that
[12] correct?

[13] A. I think what I said here it can be
[14] constructed at any time but it cannot be put into
[15] operation until there is a license.

[16] Q. So did Mr. Nourain have some
[17] misunderstanding about the circumstances under which
[18] a facility could be put in operation, was that the
[19] problem?

[20] A. I don't recall specifically what his –
[21] I'm sure I knew at the time, I don't know now what
[22] specifically he wasn't understanding. What I recall

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[1] about my relationship with Behrooz generally was
[2] that

[2] he wasn't familiar with the rules, he didn't
 [3] understand, and that I really needed to continue to
 [4] educate him, make sure we were all understanding
 each

[5] other, so that nothing untoward happened.

[6] Q. In the conversations that preceded the
 [7] letter, did you explain to Mr. Nourain how the rules
 [8] worked?

[9] A. Yes.

[10] Q. And then – so the letter really –
 [11] would it be fair to say the letter repeats the
 [12] explanation that you'd already given Mr. Nourain
 [13] orally?

[14] A. It does. One of the other points that
 [15] I was trying to get across was that there really
 [16] needed to be planning, doing a better job of
 [17] planning. If they were feeling time pressure about
 [18] getting a facility turned on, they needed to do a
 [19] better job of planning. And I was trying to get
 [20] across what the time periods were, how much lead
 time
 [21] they should plan for themselves before needing to put
 [22] something in operation, so that was the other
 purpose

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[1] of the letter.

[2] Q. Well, in the transmittal letters that
 [3] we looked at this morning you had cautioned the
 [4] company that your experience was that it was taking a
 [5] hundred and twenty days for applications to be
 [6] granted?

[7] A. Right, right.

[8] Q. Did the prior information that you had
 [9] conveyed about that come up at all in your talk with
 [10] Mr. Nourain that preceded this letter?

[11] A. Did I remind him that I had been
 [12] telling him over and over what the rules were?

[13] Q. Maybe in a gentle way, yes.

[14] A. I don't recall that I specifically did
 [15] that.

[16] Q. Did he indicate to you any surprise at
 [17] the length of time that you were telling him
 [18] immediately prior to this letter it would take for
 [19] the FCC to act on application?

[20] A. It's – it's kind of futile for you to
 [21] ask me specific questions about the conversations,
 [22] because I – all I can recall is sort of a general he

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[1] wasn't getting it feeling, and that I really needed
 [2] to drive home how this worked and what he could do
 [3] and what he couldn't do.

[4] Q. And were you concerned that if he
 [5] didn't understand things correctly, he might in fact
 [6] violate the rules by turning on a facility before he
 [7] had authority to do so?

[8] A. Certainly I was concerned about that,
 [9] yes.

[10] Q. Why did you address this letter to
 [11] Bruce McKinnon, as opposed to simply Mr. Nourain?

[12] A. Because all letters we have seen
 [13] throughout this were addressed to Bruce McKinnon.

[14] Q. Do you recall after this letter was
 [15] sent having any discussion about the substance of the
 [16] letter with Mr. McKinnon?

[17] A. No, I don't believe I have ever spoken
 [18] with Mr. McKinnon.

[19] Q. I know I had asked you generally
 [20] before, but I'm just trying to probe a specific
 [21] recollection.

[22] A. I understand, yeah, and apparently I

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[1] had a conversation with Peter Price about it, about
 [2] STAs in general, but I thought the conversation was
 [3] about antenna preemption, so I'm obviously not
 [4] remembering things right.

[5] Q. At the time this letter, do you recall
 [6] whether or not Liberty was applying for STAs, in
 [7] other words up until April 20th do you remember doing
 [8] any of those yourself?

[9] A. No. We could look back, I guess, at
 [10] some of the billing, but what I remembered generally
 [11] about this was that this letter prompted them then to
 [12] start asking me to file STAs, and started doing it as
 [13] a matter of routine. After an application had been
 [14] pending a certain number of days, the FCC says,
 okay,
 [15] if it is still pending and we haven't granted it yet,
 [16] you can ask for an STA, and that became a routine
 [17] after this period of time. That's that I recall, I
 [18] guess we could check to make sure that that's
 [19] accurate.

[20] Q. I want you to take a look at the last
 [21] big paragraph of the letter, if you have any
 [22] questions, but the one that precedes that –

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[1] A. Right.

[2] Q. – you are discussing the use of the
 [3] Hughes experimental license?

[4] A. Right.

[5] Q. Did Mr. Nourain ever tell you that he
 [6] was operating, or believed he was operating a station
 [7] or a path under a Hughes experimental license?

[8] A. No.

[9] Q. Did you discuss with him the use or
 [10] possible use of a Hughes license?

[11] A. Outside of this letter?

[12] Q. Yes.

[13] A. I don't know, I may have. The whole
 [14] exercise seemed a little pointless in that if – even
 [15] if the facility had to be turned on because they
 [16] needed certain subscribers, and you can't serve
 [17] subscribers with an experimental license, it's
 [18] futile. But if they wanted to turn anything on to
 [19] make sure everything was okay, that's my recollection
 [20] this is all this can be used for, so I don't recall
 [21] any further discussion of this, the Hughes
 [22] experimental license.

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[1] Q. I see in the -- about a third of the
[2] way down the paragraph the sentence, "I believe
[3] Liberty has used the experimental license in the
[4] past" --

[5] A. Right.

[6] Q. -- and I was just wondering --

[7] A. That's my semi-personal knowledge, I
[8] think it could have come from Bob Corazzini, could
[9] have come from Howard Barr, could have come from
[10] the people at Hughes even. I don't know how I knew
[11] about that.

[12] Q. Now we had looked previously -- before
[13] we took a break for lunch, we had looked at your time
[14] records where you indicated a conversation with
[15] Hughes and in that conversation is that where you got
[16] this information about -- it's in the last part of
[17] this paragraph about Hughes feels it's reluctant to
[18] permit operators the use of an experimental
[19] license --

[20] A. Yeah, there was another company I'm
[21] trying to think of, I think Hughes told me this, and
[22] there was another company and the name is escaping me

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[1] now, that Hughes had felt had used the license
[2] improperly and had independent knowledge of that
[3] somehow, and I just can't recall what the
[4] circumstances were.

[5] Q. Okay. After this letter was sent, did
[6] you have any further discussions with Mr. Nourain
[7] about the general subject of the letter?

[8] A. I probably had discussion with him
[9] about STAs.

[10] Q. But did it appear to you that your
[11] conversations with Mr. Nourain and the letter, which
[12] has been marked as Exhibit 8, succeeded in educating
[13] Mr. Nourain correctly about how the FCC rules worked
[14] with respect to his operations?

[15] A. Yes, I think so.

[16] Q. He never thereafter said anything to
[17] you that reflected a misunderstanding of the
[18] commissions rules and so on?

[19] A. Not that I recall. We then started
[20] applying for a special temporary authority, and my
[21] understanding was that they were waiting for that
[22] before operating anything.

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[1] Q. Okay, but I just wanted to be clear
[2] here, that prior to the letter, apparently as I
[3] understand it, there were conversations that you had
[4] with Behrooz where he revealed to you that his
[5] knowledge about the FCC rules and how they worked
[6] was wrong?

[7] A. Right.

[8] Q. And so you orally and in this letter
[9] tried to educate him about it?

[10] A. Right.

[11] Q. And the only thing I want to know is,
[12] after the letter was sent, were there any more
[13] conversations that you had with Mr. Nourain where he
[14] said things that indicated that his knowledge of the
[15] rules was wrong?

[16] A. Right -- no, didn't. I hope I answered
[17] that, I don't know if I answered that right. We
[18] didn't have any more conversations that I recall that
[19] he didn't get it, after this letter I think he
[20] understood.

[21] Q. Okay. Was there any particular time
[22] table that you discussed with Mr. Nourain within

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[1] which he could expect it to be granted? Now you've
[2] mentioned before about the fact that you had to wait
[3] a certain amount of time before filing an STA, but
[4] was there any other time table with respect to STAs
[5] that you discussed with Mr. Nourain?

[6] A. It's so hard -- I don't recall. There
[7] may have been. The FCC may have said if you file an
[8] STA, we can try to grant it within a certain period
[9] of time, but I don't recall specifically saying --
[10] unless you show me something that says I did say we
[11] would expect STAs within a certain period of time, I
[12] just don't recall right now.

[13] Q. Well, let me back up for just a second.
[14] How long did you have to wait from when an
[15] application went on public notice to when you could
[16] file STAs, do you remember how long that was?

[17] MR. BEGLEITER: Objection, no
[18] foundation.

[19] A. I don't know right now. But I think
[20] the FCC did give me some guidelines, the staff gave
[21] me guidelines, don't file before it's been pending X
[22] number of days, after it had been pending X number
of

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[1] days you can file, but I don't remember what that
[2] number is or was.

[3] Q. (BY MR. BECKNER) Okay. And would you
[4] have shared that information with Mr. Nourain?

[5] A. Oh, sure.

[6] Q. And do you remember whether or not the
[7] staff might have also told you a time that you would
[8] expect the STA request to be acted on within a
[9] certain time after it had been filed?

[10] A. You asked me that, and I don't -- I
[11] don't know.

[12] Q. All right, just asking in a little
[13] different way.

[14] A. Yeah.

[15] Q. Aside from signed applications and
[16] frequency coordination studies and that sort of
[17] thing, did you receive any other kinds of documents
[18] from Liberty on a regular basis, any kind of reports
[19] or memos or anything?

[20] A. Not that I recall.

[21] Q. Do you remember ever seeing a document

[22] *that Liberty had that was called an installation*

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[1] *progress report?*

[2] **A. No.**

[3] *Q. Weekly operations report?*

[4] **A. No.**

[5] *Q. I'm not going to show them.*

[6] *(There was discussion outside the*
[7] *record.)*

[8] *(Whereupon, a document was marked*
[9] *Richter Deposition Exhibit Number 9, for*
[10] *identification by the reporter.)*

[11] *Q. (BY MR. BECKNER) Miss Richter, you*
[12] *have been handed a copy of an exhibit that's been*
[13] *marked Exhibit 9 in your deposition,. It's another*
[14] *Pepper and Corazzini-- well, it's dated 6/10/93, FCC*
[15] *slash CP 018043 through 45. Take whatever time you*
[16] *need to look at it and I'm going to ask you a few*
[17] *questions about it.*

[18] **A. Go ahead.**

[19] *Q. Okay, the first entry on the bill says*
[20] *phone call: Behrooz re: service commencement dates.*
[21] *Do you have any idea what that phone call was about?*

[22] **A. That would have been in connection with**

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[1] **the previous sentence that says prepare and file 10**
[2] **certificates of construction. I believe the**
[3] **certificates that I filed would have included a**
[4] **service commencement date, and so I was calling to**
[5] **get those, that's what it looks like.**

[6] *Q. Okay, so the certificate of*
[7] *construction, that was -- that would be for*
[8] *construction of a licensed facility?*

[9] **A. Right.**

[10] *Q. And you would include on that*
[11] *certificate the date the service using that facility*
[12] *was actually commenced?*

[13] **A. Right, that's what it looks like, yeah.**

[14] *Q. How did you know when it was time to*
[15] *file these certificates of construction?*

[16] **A. I don't know.**

[17] *Q. Was there -- well, we discussed about*
[18] *your request that Liberty send you copies of*
[19] *licenses?*

[20] **A. Right.**

[21] *Q. So presumably you had the copies of*
[22] *licenses?*

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[1] **A. Right.**

[2] *Q. But would Liberty then tell you either*
[3] *orally or in some written communication, okay, we've*
[4] *built the facility at 520 5th Avenue, just speaking*
[5] *hypothetically?*

[6] **A. Right, I don't know how that came**
[7] **about. And again we are getting into an area where I**
[8] **think I was filing these and someone later told me it**
[9] **wasn't necessary, that the licenses didn't require it**
[10] **and so forth, so I don't know -- I don't know whether**
[11] **they called me or I called them and said, hey, was**

[12] **that constructed and turned on? I don't know which**
[13] **way it happened.**

[14] *Q. But the certificates of construction*
[15] *did -- your practice, I take it, was that when you*
[16] *filed them, the information about when the facility*
[17] *was turned on was included in the certificate, is*
[18] *that correct?*

[19] **A. That is what I'm gleaning from this**
[20] **entry here. I would have to look back. If you had a**
[21] **copy of one, I could look at it and I could tell you**
[22] **that, but I don't recall specifically myself without**

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[1] **this reference.**

[2] **MR. BECKNER:** Could we have a document
[3] request?

[4] **MR. BEGLEITER:** This is public record,
[5] Bruce.

[6] *Q. (BY MR. BECKNER) Just kidding. Now in*
[7] *the -- we can go back and look at them if we need to,*
[8] *in the inventories that you prepared later in 1993,*
[9] *you remember we looked at one that was at the end of*
[10] *1993; did you indicate anywhere in that inventory any*
[11] *facilities for which an STA had been granted which*
[12] *were not yet licensed, was that information in there?*

[13] **A. I don't recall seeing it specifically**
[14] **in anything we've looked at, and I -- I don't know**
[15] **how I kept track of that.**

[16] *Q. I mean I'm asking you the question,*
[17] *because I didn't see it.*

[18] **A. Right.**

[19] *Q. But it's not my document, so I don't*
[20] *know. Let's look at --*

[21] **A. Are you sure you have all of the**
[22] **inventories?**

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[1] *Q. No, I'm not, I know what I have, I*
[2] *don't know if I have all of them.*

[3] **A. And I don't know.**

[4] *Q. Here is the one for January 6, '94.*
[5] *It's one you looked at before. If you just want to*
[6] *look at that one and see. And I'll also give you the*
[7] *December 1, '93 inventory, which you've looked at*
[8] *before. Again I'm not trying to trick you, I didn't*
[9] *see anything that looked like it, STAs on that.*

[10] **A. I know you are not trying to trick me.**

[11] *Q. But every time I look at those things,*
[12] *I learn something new.*

[13] **A. I don't see any notations on these two**
[14] **copies, the December 1, '93 and the January 6, '94**
[15] **inventories that indicate STA grants anywhere.**

[16] *Q. Okay, and I take it that you don't have*
[17] *an independent recollection as to whether or not you*
[18] *would have included STA grants on any inventory that*
[19] *you prepared?*

[20] **A. Right, I don't recall.**

[21] *Q. Going back to Exhibit 9, the bill dated*
[22] *June 10th, the last entry in the first page talks*

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[1] *about prepare letters to Behrooz re: grant of STAs,*

[2] so on. Was it your practice to inform Liberty in a
[3] letter whenever they received an STA?

[4] A. I may have, I don't recall. It looks
[5] like I sent a letter to Peter Price regarding STAs
[6] and various other issues, and I don't know what the
[7] substance of that letter was, I don't know.

[8] Q. And if you back up a few entries here,
[9] the May 19th entry references a phone call: Behrooz,
[10] re: grant of STAs. Do you think that means that you
[11] called Behrooz to tell him that STAs had been
[12] granted?

[13] A. It appears that's the entry, um-hum.

[14] Q. Do you think it likely would have been
[15] your practice either to call or write Behrooz
[16] whenever you got an STA?

[17] A. It looks here like I called him and I
[18] wrote him actually on the 25th, prepare letters to
[19] Behrooz re: grant of STAs.

[20] MR. BECKNER: Let's go off the record
[21] for a second.

[22] (There was discussion outside the

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[1] record.)

[2] (Whereupon, a document was marked
[3] Richter Deposition Exhibit Number 10, for
[4] identification by the reporter.)

[5] Q. (BY MR. BECKNER) Okay, Miss Richter,
[6] you have been handed what's been marked as Exhibit 10
[7] to your deposition. It's a copy of a May 25, 1993
[8] letter with an attachment, and it has production
[9] numbers FCC slash CP 018115 through 17. I'll note
[10] for the record that a portion of the letter has been
[11] redacted by Liberty's counsel, I'm not going to ask
[12] you about that. Take whatever time you need to take
[13] a look at this, and I'll ask you a few questions.

[14] A. Okay.

[15] Q. First can you identify for us - is
[16] this your signature on the second page?

[17] A. That's - that's my initials, those are
[18] my initials.

[19] Q. Okay. And going back to Exhibit 9, the
[20] May 25th entry on Exhibit 9 that we just looked at,
[21] does this appear to you to be the letter to Peter
[22] Price that's mentioned in that time entry?

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[1] A. It does.

[2] Q. Okay. Now the letter says that you
[3] will henceforth work under the assumption that you
[4] will want to file STA requests for each modification
[5] application. Tell us what prompted you to write
[6] that.

[7] A. I believe that was the direction that I
[8] got from Behrooz after the April 20th letter -
[9] actually it could have been direction from Peter
[10] Price, also, I guess, since I had a conversation with
[11] him about it, that they wanted me to file STAs, that
[12] they needed paths granted, so that they could use
[13] them at the earliest possible date. I don't recall
[14] who, though, told me to do that, it could have been

[15] Behrooz, I guess, or Peter Price.

[16] Q. Okay. And this mentions here that you
[17] are going to make this request after the 30-day
[18] public notice period has passed. If you recall I was
[19] asking you earlier about the time period involved and
[20] your unassisted recollection was that you couldn't
[21] remember; does this refresh your recollection?

[22] A. Right, it does. This says that we

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[1] could file for special temporary authority after the
[2] 30-day public notice period closed, and again, as I
[3] stated earlier, that direction would have been given
[4] to me by FCC staff.

[5] Q. Now as far as you know, based on your
[6] conversations with Mr. Nourain, was it his
[7] understanding that only after the STA request was
[8] granted could he then activate the facility for which
[9] the request had been made?

[10] A. Yes - do I believe he understood
[11] that?

[12] Q. Yes.

[13] A. Yes.

[14] Q. And I know I've asked this to you
[15] before, but I'm going to ask if this letter refreshes
[16] your recollection at all about how much time it would
[17] take for the commission to act on the STA request
[18] after it had been filed?

[19] A. No, this says that they acted promptly
[20] on it, but I don't know what kind of time frame we're
[21] talking about.

[22] (There was discussion outside the

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[1] record.)

[2] Q. (BY MR. BECKNER) Back on the record.
[3] Miss Richter, I'd like you to pick up Exhibit 9
[4] again, that's the June 10th, a couple of more
[5] questions -

[6] A. Okay.

[7] Q. - on the May 24th entry, we have
[8] review STAs against inventory, update inventories.
[9] You recall I'd been asking you about whether or not
[10] the inventories reflected STAs and I apologize, I
[11] omitted to ask you about this entry; does this
[12] refresh your recollection about whether or not the
[13] STAs included inventory - I'm sorry, the inventories
[14] included STAs?

[15] A. It actually doesn't. I don't know what
[16] I did with that, I don't know.

[17] Q. Now the inventory I think we've
[18] established would have included a list of your
[19] pending applications?

[20] A. That's right.

[21] Q. So would it have been that you reviewed
[22] STAs against the pending applications that were

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[1] listed?

[2] A. Right, that's right.

[3] Q. But your updating the inventories might
[4] have been simply adding applications that had been

[5] granted since you had prepared the inventory, net
[6] necessarily indicating that STAs were filed?

[7] A. It's unclear, we don't have any
[8] inventories past this May point or past April, no.

[9] Q. I will tell you I have shown you all
[10] the inventories that have been produced to us.

[11] A. Okay.

[12] Q. I don't know if there are more or there
[13] are not more.

[14] MR. BEGLEITER: That's all I know of,
[15] you know of more?

[16] Q. (BY MR. BECKNER) I mean there were
[17] others produced after you left Pepper and Corazzini?

[18] A. Oh, okay.

[19] Q. But I mean that's different obviously.

[20] (Whereupon, there was a recess.)

[21] (Whereupon, a document was marked

[22] Richter Deposition Exhibit Number 11, for

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[1] identification by the reporter.)

[2] Q. (BY MR. BECKNER) All right, Miss
[3] Richter, you have been handed what's been marked as
[4] Exhibit 11 to your deposition. It's a fax cover
[5] sheet with an attached letter and the inventory, with
[6] the first page having production number FCC slash CP
[7] 018099, the last page having production number FCC
[8] slash CP 018114. Is this your handwriting on the
[9] cover page?

[10] A. It is.

[11] Q. Now I noticed that the - in the blank
[12] that says the total number of pages being transmitted
[13] here with is 13, including this page. But the fax
[14] machine has printed, I think, 16. Do you know
[15] whether or not you were just mistaken when you wrote
[16] down 13? Does it appear - does this appear to be
[17] all of the fax that you sent Mr. Nourain and nothing
[18] more?

[19] A. Yeah, and I guess we could confirm that
[20] by looking at the time stamps at the top, but it does
[21] seem to follow, so my notation on the front is
[22] incorrect.

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[1] Q. I just want to make sure that the
[2] exhibit is - doesn't have any extra pages in it,
[3] that's all.

[4] A. It all seems to follow.

[5] Q. All right, fine. Now looking at the
[6] fourth page of the document, and we will just go by
[7] the stamp that the fax machine generated at the top,
[8] it says P.04?

[9] A. Yes.

[10] Q. There's the words to delete in
[11] parenthesis by - by some of the paths. Are those
[12] the ones that you and Mr. Nourain had agreed were no
[13] longer used and therefore need not be licensed any
[14] further?

[15] A. I don't know that we agreed, he would
[16] have told me we don't use this path and so it can be
[17] deleted.

[18] Q. Okay. Now on the next page of the

[19] inventory that has .05 at the top right -

[20] A. Right.

[21] Q. - there is a handwritten notation All

[22] Bold, New Path. Is that your writing?

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[1] A. It is.

[2] Q. And what did you mean by that, if you
[3] can tell us now?

[4] A. I wouldn't know independently, except
[5] that I have this letter here that I'm sending to Mike
[6] Roth. And somewhere on this letter I just read that
[7] I would tell him what that means, bold faced type is
[8] used to delineate those aspects of the authorization
[9] that have been modified. This is apparently a
[10] modification to WNTM-210, and I think what I'm
[11] saying

[11] in the margin here is that this must have been in all
[12] bold, and that these are new paths, or that path is a
[13] new path.

[14] Q. Now with respect to this particular
[15] document here, can you tell us whether or not it
[16] indicates that these are actual licenses, as opposed
[17] to pending applications?

[18] A. That what is a license, as opposed to a
[19] pending application?

[20] Q. In other words, looking at these sheets
[21] that were part of this facsimile -

[22] A. Right.

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[1] Q. - can you tell whether or not these
[2] paths were all licensed or all subject to pending
[3] applications, or a mixture of the two?

[4] A. Well, I can't tell, but there is
[5] something interesting that I am noting. If you go up
[6] under the transmitter information, I'm on page 4 of
[7] the facsimile number, you see where I have a file
[8] number next to the coordinates. That must mean that
[9] there was some kind of correction of the coordinates
[10] on this, and that correction included the path to I
[11] Lincoln Plaza, which may have meant that that was
[12] already a licensed path, but the coordinates either
[13] were wrong because of a site surveyor - I don't know
[14] what the reason would be, and so there was a
[15] modification of that that included the path to I
[16] Lincoln Plaza.

[17] Q. The reason I asked you the question is
[18] that the letter to Mr. Roth - let me just ask you,
[19] strike that - in the facsimile to Mr. Nourain, the
[20] first two pages and the cover page are a letter to
[21] Mr. Michael Roth of Comsearch -

[22] A. Right.

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[1] Q. - which is dated March 16th, so I take
[2] it that you sent that letter on the same day that you
[3] sent the fax to Mr. Nourain, is that correct?

[4] A. That appears to be correct.

[5] Q. Now the various inventory pages that
[6] follow the copy of the letter to Michael Roth, is

[7] *that also the same material that was included in the*
 [8] *actual letter that Mr. Roth was sent by you?*

[9] **A. Yes, I say in my letter to him that I**
 [10] **am transmitting him inventories of 10 microwave**
 [11] **licenses.**

[12] **Q. So your intention was to send by**
 [13] **facsimile to Mr. Nourain everything that you had put**
 [14] **in the mail to Mike Roth?**

[15] **A. Right.**

[16] **Q. On the same day?**

[17] **A. Right.**

[18] **Q. And the first line of the letter to Mr.**
 [19] **Roth it says inventories of Liberty Cable's ten 18**
 [20] **GHz microwave licenses?**

[21] **A. Right.**

[22] **Q. So this document that follows the**

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[1] *letter was intended to be the licenses, correct?*

[2] **A. Well, that's right. You can tell that**
 [3] **there are licenses for these various transmitters,**
 [4] **and you can tell that because there is a call sign at**
 [5] **the top have each page, so it's a licensed facility.**
 [6] **The question is which paths are also licensed, which**
 [7] **paths are licensed and are being modified and which**
 [8] **paths are new paths that have not yet been licensed.**
 [9] **That's unclear, and I would be able to tell and I'm**
 [10] **sure I knew at the time, if we looked through more**
 [11] **documents and I was able to put it together. Not**
 [12] **that I'm asking for that.**

[13] **Q. I don't think I have any more questions**
 [14] **for you about Exhibit 11. I have a few more**
 [15] **questions that are not document questions.**

[16] **A. Okay.**

[17] **Q. As you were preparing to leave Pepper**
 [18] **and Corazzini, did you assist in preparing someone**
 [19] **else to take over your responsibilities for Liberty?**

[20] **A. I did.**

[21] **Q. And who was the person who was going to**
 [22] **take over from you?**

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[1] **A. I think Michael Lehmkuhl. My**
 [2] **understanding at the time that an attorney named**
 [3] **Michael Lehmkuhl, L-e-h-m-k-u-h-l, was going to**
 [4] **take**
 [5] **over representations on that account and I assisted**
 [6] **him in understanding the inventories and the files,**
 [7] **work in progress.**

[8] **Q. Did you brief him on the procedures**
 [9] **that you and Mr. Nourain had worked out for handling**
 [10] **applications for new paths and STA requests and so**
 [11] **on?**

[12] **A. I may have, yeah, but I don't recall**
 [13] **the specific conversations, but I did prepare him to**
 [14] **handle the account.**

[15] **Q. Now we looked at a document earlier**
 [16] **that - a letter you had sent to Mr. Price where you**
 [17] **told him that henceforth you're going to routinely**
 [18] **file STA requests when the 30 days from public notice**
 [19] **have run. Did you tell Mr. Lehmkuhl that that was a**

[19] *procedure that had been established between you and*
 [20] *Liberty?*

[21] **A. I would imagine that I did, but I don't**
 [22] **recall specific conversations, not possible.**

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[1] **Q. Was that practice - during the time**
 [2] **when you were working there, was that practice ever**
 [3] **changed, that is the practice of filing STAs as soon**
 [4] **as it was possible to file them?**

[5] **A. I don't know, and what - what I'm**
 [6] **thinking of specifically is that the FCC got their**
 [7] **computer problem worked out or they came up with**
 [8] **some**

[9] **new way of processing these applications, and they**
 [10] **actually started giving separate file numbers,**
 [11] **separate call signs - that's a correction, separate**
 [12] **call signs to new paths, which was odd, but that was**
 [13] **helping them to get the applications processed more**
 [14] **quickly. And I'm not sure in what time frame that**
 [15] **happened before I left. I recall that that was**
 [16] **happening.**

[17] **Q. Okay. Was that changing your practice**
 [18] **with respect to STA filings?**

[19] **A. I don't know, I can't recall.**

[20] **Q. You can't recall one way or the other**
 [21] **whether it did or it didn't?**

[22] **A. Right, may have, I just don't know. I**
 [23] **do recall that the FCC was getting things processed a**

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[1] **little more quickly.**

[2] **Q. Were you aware of whether or not**
 [3] **Liberty had any kind of process, or problem or**
 [4] **procedure in place when you were representing them by**
 [5] **which they would try to make sure that they did not**
 [6] **turn on a new microwave facility before they had**
 [7] **authority to do so?**

[8] **A. No.**

[9] **Q. So I take it that if they had such a**
 [10] **procedure, you didn't know about it, and you didn't**
 [11] **work with them in setting one up?**

[12] **A. No, outside of my letters that**
 [13] **repeatedly go over what they can do and what they**
 [14] **can't do, I didn't set up any specific procedure for**
 [15] **them and I wasn't aware of any special internal**
 [16] **procedure they may have had.**

[17] **Q. So I take it that there was never a**
 [18] **procedure or instance where, for example, Mr. Nourain**
 [19] **would call you and say Jennifer, we are going to**
 [20] **activate a path to such and such, can we go that, do**
 [21] **we have a license or authority to do that?**

[22] **A. He would call to check on the status of**

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[1] **STAs, and I think that would implicate your question,**
 [2] **which is can I turn on this path, you know, has the**
 [3] **STA been granted yet?**

[4] **Q. But my question was a little**
 [5] **different -**

[6] **A. Okay.**

[7] **Q. - and purposely so -**

[8] A. Okay.
 [9] Q. – because the question – the
 [10] information I was looking for is whether he ever told
 [11] you I'm going to turn on a particular path?
 [12] A. Absolutely – before it was licensed?
 [13] Q. No, just the statement I'm going to
 [14] turn on a particular path, perhaps followed by a
 [15] question, is that okay, or do we have a license for
 [16] that, or anything like that?
 [17] A. That may or may not have happened, I
 [18] just don't recall specifically. We would have
 [19] conversations about STAs, which implicates the
 [20] question. I understand it's not your question.
 [21] Q. It's a different thing, he may have
 [22] called you and asked about the status of an

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[1] application or the status or a STA request, but he
 [2] might have done that without telling you why it was
 [3] he was interested in that information, is that
 [4] possible, do you recall that?
 [5] A. I didn't get into the business
 [6] decisions of Liberty Cable, yes – no.
 [7] Q. I have one more document.
 [8] (Whereupon, a document was marked
 [9] Richter Deposition Exhibit Number 12, for
 [10] identification by the reporter.)
 [11] Q. (BY MR. BECKNER) Okay, you've been
 [12] handed a one-page document that's been marked as
 [13] Exhibit 12 for your deposition. I simply want to ask
 [14] you first, is that your signature on the signature
 [15] line?
 [16] A. It is.
 [17] Q. Who provided you with the copy of the
 [18] letter that's referenced in paragraph 1 of the
 [19] declaration?
 [20] A. I believe it was Elliot Spitzer.
 [21] Q. Did you discuss the letter with Mr.
 [22] Spitzer?

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[1] A. He read it to me over the phone, and
 [2] then faxed it to me.
 [3] Q. And then he asked you about it, what
 [4] you remembered about it?
 [5] A. Right.
 [6] Q. In paragraph 3 of the declaration, did
 [7] you tell Mr. Spitzer anything about what you
 [8] remembered from the letter in addition to what's set
 [9] out in paragraph 3?
 [10] A. Yeah, I believe I recounted to him also
 [11] that – that there seemed to be some confusion on the
 [12] part of Behrooz Nourain about what the rules were
 [13] and
 [14] there appeared to be some confusion about what he
 [15] could do and what he couldn't do. And that
 [16] precipitated the letter and that thereafter we
 [17] applied for STAs as a matter of course. I think that
 [18] was our discussion, I mean he asked me if I knew if
 [19] they had anything operating that wasn't licensed and
 [20] I said absolutely not.

[20] Q. Did you review any other documents in
 [21] preparation for your deposition today, I mean
 [22] obviously you saw the letter that's referenced here,

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[1] but did you look at anything else?
 [2] A. No, I didn't even look at the letter,
 [3] the April 20th letter.
 [4] Q. But you looked at the April 20th letter
 [5] before you did this declaration?
 [6] A. That's correct.
 [7] Q. You say here at the last sentence on
 [8] paragraph 3, you say "that was not the tone of my
 [9] letter." How would you describe the tone of that
 [10] letter, I mean, what would you say the tone of the
 [11] letter was?
 [12] A. That I was concerned that Liberty
 [13] didn't understand the rules, that I was concerned
 [14] that there was a possibility they could be putting
 [15] things on the air that they shouldn't have on the
 [16] air, and I just wanted to make sure for the record
 [17] everybody understood what the rules were. If they
 [18] had told me outright, yes, we have turned something
 [19] on, I would have sent them a letter saying turn it
 [20] off until we have an STA or we've got a grant.
 [21] Q. Aside from your telephone conversation
 [22] with Mr. Spitzer that you mentioned a few minutes

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[1] ago, have you discussed the substance of your
 [2] testimony, today's deposition or what it might be,
 [3] with anybody else. And I know you have had what I'm
 [4] going to call procedural telephone conversations with
 [5] Mr. Weber, and perhaps with Mr. Spitzer as well, but
 [6] I'm talking about a substantive conversation.
 [7] A. I've spoken with Howard Barr. I mean
 [8] I'm still very confused and in the dark about what
 [9] this whole thing is about, period. And I asked him
 [10] generally what it was about, and we discussed how
 [11] neither of us knew anything, and so understanding
 [12] that there's a necessity for this, we got a little
 [13] frustrated by that. But that's it.
 [14] Q. Did you discuss with Howard Barr, I
 [15] mean aside from whatever this proceeding is about,
 [16] did you discuss what you knew and what you didn't
 [17] know back when you were working in his law firm?
 [18] A. Yes, that I did not know that Liberty
 [19] had turned anything on without authorization, yes, we
 [20] discussed that, and his comment was that he knew
 [21] even
 [22] less than I knew, so – (pause)
 [23] Q. Did Mr. Barr indicate to you that he

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[1] had been a witness in the hearing in this proceeding?
 [2] A. Yes, he did.
 [3] Q. Did he tell you anything about his
 [4] testimony in that hearing?
 [5] A. I think he mentioned that maybe he was
 [6] the person that referenced – I don't know whether
 [7] this is true or not, but I was the person that
 [8] referenced this April 20th letter, and that is sort

[9] of how I've gotten involved in – in this today.
 [10] That was about the extent of it.
 [11] Q. So it was in the context of explaining
 [12] to you how you came to get roped into this, to use
 [13] the term?
 [14] A. Right, right.
 [15] Q. And aside from that, he didn't discuss
 [16] any of the rest of his hearing testimony with you,
 [17] the substance of it?
 [18] A. No, really all I said was he knows less
 [19] than I apparently knew or whatever, so – (pause)
 [20] MR. BECKNER: Okay, thank you very
 [21] much, Miss Richter. Mr. Weber may have some
 [22] questions for you, but I do not have any more.

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[1] A. Okay.
 [2] EXAMINATION
 [3] Q. (BY MR. WEBER) Good afternoon, Miss
 [4] Richter, as you know I'm Joseph Weber and I represent
 [5] the Wireless Telecommunications Bureau in this
 [6] proceeding. I'd like you to look back at what's been
 [7] marked as Richter 8, Exhibit 8, which is this April
 [8] 20th letter that we've been discussing the most.
 [9] A. Yes.
 [10] Q. I'd like you to just turn to the last
 [11] page, and at the very bottom below the cc to Mr.
 [12] Nourain there's some lettering including what looks
 [13] to be the file that had this d colon, back slash, wp
 [14] back slash 1808, is that the computer file name?
 [15] A. Yes, and that would have been typed by
 [16] my secretary, Kim Wilson, that's the kaw.
 [17] Q. And then the name of the file, opertn
 [18] dot ltr, is that a name you would have given the file
 [19] or she would have given the file?
 [20] A. No, that's the name she would have
 [21] given the file.
 [22] Q. Now Mr. Beckner had questioned you

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[1] about the second sentence on the first page, and
 [2] where you say some things were revealed that gave you
 [3] and Mr. Nourain pause, and you have described today
 [4] that you believe now that that had to do with Mr.
 [5] Nourain's lack of understanding of the rules or his
 [6] confusion of the rules. Why would his confusion
 [7] actually give you pause?
 [8] A. Because if the confusion led him to
 [9] turn on a facility that wasn't licensed, that's
 [10] serious.
 [11] Q. Did you do anything after the date of
 [12] this letter or around the date of this letter to
 [13] confirm or check to see whether or not Mr. Nourain's
 [14] confusion had led him to turn on a path that had not
 [15] been licensed?
 [16] A. No.
 [17] Q. Is there a reason why you did not do
 [18] that?
 [19] A. That would have required me to travel
 [20] to New York City, right, which is not something the
 [21] client asked me to do.

[22] Q. Would it have been possible for you to

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[1] check whether or not paths were operating without
 [2] going to New York City?
 [3] A. How would I have done that?
 [4] Q. Could you have asked Mr. Nourain what
 [5] paths were in operation?
 [6] A. I suppose I could have.
 [7] Q. But at the time of this letter you
 [8] didn't consider doing that, or to your recollection
 [9] you don't recall considering confirming whether or
 [10] not paths would have been turned on early?
 [11] A. No, that would have made the assumption
 [12] that I thought that he had, and he specifically had
 [13] not told me that he had, so I was operating under the
 [14] assumption that he had not.
 [15] Q. Did anybody else at Pepper and
 [16] Corazzini review this letter before it was sent to
 [17] the client?
 [18] A. I don't recall.
 [19] Q. Do you know if Mr. Barr saw it ahead of
 [20] time?
 [21] A. I don't recall, he may have, Bob
 [22] Corazzini may have.

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[1] Q. You don't recall specific discussions
 [2] with any supervisor or anybody more senior to you at
 [3] the firm before the letter went out?
 [4] A. That may have happened, but I don't
 [5] recall.
 [6] Q. Do you recall if the letter was only
 [7] mailed, or do you know if it was also sent by fax?
 [8] A. I don't know that.
 [9] Q. Can you recall at the time of this
 [10] letter having any discussions with Mr. Barr
 [11] concerning your worries over Mr. Nourain's lack of
 [12] understanding of the rules or confusion of the rules?
 [13] A. I don't recall any specific
 [14] conversations with Howard about that.
 [15] Q. Can you recall having ever – at any
 [16] point having a discussion with Mr. Barr which could
 [17] have also led Mr. Barr to have similar concerns that
 [18] Liberty may have prematurely operated a station?
 [19] A. No one ever said that Liberty did that.
 [20] Q. You said at the time of this letter
 [21] that you at least had pause, because you're afraid
 [22] that that could happen because of Mr. Nourain's lack

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[1] of understanding of the rules?
 [2] A. Right.
 [3] Q. Can you recall having any conversation
 [4] with Mr. Barr that would have also given Mr. Barr the
 [5] same type of concern?
 [6] A. Well, if I had had a conversation with
 [7] him, but I don't recall having a conversation with
 [8] him, and I'm not saying it didn't happen, I'm just
 [9] saying I don't recall.
 [10] MR. WEBER: I'm going to ask that we
 [11] mark, ask that this be marked 13.

[12] (Whereupon, a document was marked
[13] Richter Deposition Exhibit Number 13, for
[14] identification by the reporter.)
[15] Q. (BY MR. WEBER) Okay, and for the
[16] record this is a four-page document with the title at
[17] the top Attorney Time Record with Bates numbers
[18] 18194
[19] through 18197. Do you recognize what – first of
[20] all, do you recognize what this basic form is on this
[21] document?

[21] A. Yes.

[22] Q. And this is what I guess you referred

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[1] to earlier as the blue form where you put your time?

[2] A. Yes, yes.

[3] Q. And this is your handwriting on each of
[4] the various pages?

[5] A. Yes.

[6] Q. And then I guess the date at the top
[7] 4/2 would have meant this is the work that you had
[8] done on April 2nd?

[9] A. That's right.

[10] Q. And et cetera for the following pages?

[11] A. That's right.

[12] Q. And then the blacked out portions, you
[13] did not do that, correct?

[14] A. No, that's correct.

[15] Q. And then a clerk would have taken the
[16] material and your time sheets and typed up some of
[17] the time sheets that Mr. Beckner was showing you
[18] earlier, correct?

[19] A. That's correct.

[20] MR. WEBER: I'd like to have this
[21] marked Richter 14.

[22] (Whereupon, a document was marked

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[1] Richter Deposition Exhibit Number 14, for
[2] identification by the reporter.)

[3] Q. (BY MR. WEBER) And for the record,
[4] this is a four-page document titled Pepper and
[5] Corazzini, Telephone Call Sheet, Bates numbers 19112,
[6] through 19115. Do you recognize what this document
[7] is?

[8] A. I have never seen it before.

[9] Q. And have you ever seen a document like
[10] this before?

[11] A. Actually I haven't.

[12] Q. Well, do you know if at the time you
[13] were at Pepper and Corazzini, whether calls were –
[14] every call that came into the office, whether it was
[15] logged in or not?

[16] A. I – I don't know.

[17] Q. At the time you were there, did you
[18] have a direct dial phone number or did they all have
[19] to go through a receptionist?

[20] A. Well, they all went through a
[21] receptionist, I don't know what they do now.

[22] Q. And you don't know if the receptionist

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[1] wrote down the name of every person who called in or
[2] not?

[3] A. No.

[4] MR. WEBER: Thank you, Miss Richter,
[5] that's all the questions I have.

[6] EXAMINATION

[7] Q. (BY MR. BEGLEITER) I have just a
[8] couple of questions. Miss Richter, going back to
[9] Richter 8, there is at the very first page a legend
[10] at top that reads, "Peter, please review and advise,
[11] B.N., 4/28/93." Have you ever seen this before
[12] today?

[13] A. No.

[14] Q. Miss Richter, are you here voluntarily?

[15] A. Yes.

[16] Q. Were you served with any kind of
[17] summons or compulsive document compelling your
[18] attendance?

[19] A. No.

[20] MR. BEGLEITER: Thank you. I have no
[21] further questions.

[22] MR. BECKNER: Thank you. Are you

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[1] going to read and sign or are you going to waive
[2] signature? None of us here can advise you on that,
[3] but you have done this drill before, so you know what
[4] it is.

[5] THE WITNESS: I am happy to read and
[6] sign.

[7] (Whereupon, at 2:55 p.m., the
[8] deposition was concluded.)

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[1] I, JENNIFER L. RICHTER, Esq., do
[2] hereby state under oath that I have read the above
[3] and foregoing deposition, and that the above
[4] transcript and accompanying correction sheets, if
[5] any, constitute a true and correct record of my
[6] testimony.

[7]
[8]
[9] JENNIFER L. RICHTER, Esq.
[10]
[11] STATE OF COLORADO)
[12]) ss.
[13] CITY & COUNTY OF DENVER)

[14]
[15] Subscribed and sworn to before me by
[16] the said JENNIFER L. RICHTER, Esq., this day of
[17] 1997.

[18]
[19] My commission expires:

[20]

[21]

[22] NOTARY PUBLIC

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[1] CERTIFICATE
[2] STATE OF COLORADO)
[3]) ss.
[4] CITY & COUNTY OF DENVER)
[5]
[6] I, D. Frederick Carnes, III., a
[7] Certified Shorthand Reporter, a Registered
[8] Professional Reporter, and a Notary Public within
and
[9] for the City and County of Denver, State of Colorado,
[10] do hereby certify that previous to the commencement
[11] of the examination of the said JENNIFER L.
RICHTER,
[12] Esq., a witness called for examination by Time
Warner
[13] Cable of New York City, herein in the said suit
[14] before the said Federal Communications
Commission,
[15] was duly sworn by me to testify the truth in relation
[16] to the matters in controversy now pending and
[17] undetermined between the said parties so far as she
[18] should be interrogated concerning the same;
[19] That the said deposition was taken in
[20] shorthand by me 9250 East Costilla Avenue, Suite
325,
[21] City of Englewood, State of Colorado, on the 12th
day
[22] of May, 1997, at 10:00 a.m., and was reduced to

Page 134

[1] typewritten form under my supervision;
[2] That the foregoing is a true
[3] transcript of the questions asked, the testimony
[4] given, and the proceedings had;
[5] That I am neither attorney nor
[6] counsel, nor in any way connected with any attorney
[7] or counsel for any of the parties to said action, or
[8] otherwise interested in its event.
[9]
[10] IN WITNESS WHEREOF, I have hereunto
[11] set my hand and affixed my notarial seal this 14th
[12] day of May, 1997. My commission expires January 29,
[13] 1999.
[14]
[15] D. Frederick Carnes, III,
[16] CSR/ RPR and Notary Public
[17]
[18]
[19]
[20]

Look-See Concordance Report

UNIQUE WORDS:

1,351

TOTAL

OCCURRENCES: 6,225

NOISE WORDS: 384

TOTAL WORDS IN

FILE: 20,520

SINGLE FILE

CONCORDANCE

CASE SENSITIVE

NOISE WORD LIST(S):

NOISE.NOI

INCLUDES ONLY

TEXT OF:

QUESTIONS

ANSWERS

COLLOQUY

PARENTHETICALS

EXHIBITS

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IGNORES PURE

NUMBERS

POSSESSIVE FORMS ON

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